



Sen. Dan Cronin

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LRB095 07887 NHT 36033 a

1 AMENDMENT TO HOUSE BILL 1647

2 AMENDMENT NO. _____. Amend House Bill 1647 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois School Student Records Act is
5 amended by changing Sections 2 and 5 and by adding Section 5.5
6 as follows:

7 (105 ILCS 10/2) (from Ch. 122, par. 50-2)

8 Sec. 2. As used in this Act,

9 (a) "Student" means any person enrolled or previously
10 enrolled in a school.

11 (b) "School" means any public preschool, day care center,
12 kindergarten, nursery, elementary or secondary educational
13 institution, vocational school, special educational facility
14 or any other elementary or secondary educational agency or
15 institution and any person, agency or institution which
16 maintains school student records from more than one school, but

1 does not include a private or non-public school.

2 (c) "State Board" means the State Board of Education.

3 (d) "School Student Record" means any writing or other
4 recorded information concerning a student and by which a
5 student may be individually identified, maintained by a school
6 or at its direction or by an employee of a school, regardless
7 of how or where the information is stored. The following shall
8 not be deemed school student records under this Act: writings
9 or other recorded information maintained by an employee of a
10 school or other person at the direction of a school for his or
11 her exclusive use; provided that all such writings and other
12 recorded information are destroyed not later than the student's
13 graduation or permanent withdrawal from the school; and
14 provided further that no such records or recorded information
15 may be released or disclosed to any person except a person
16 designated by the school as a substitute unless they are first
17 incorporated in a school student record and made subject to all
18 of the provisions of this Act. Except as otherwise provided in
19 this Act, school ~~School~~ student records shall not include a
20 confidential communication or information maintained by law
21 enforcement professionals working in the school.

22 (e) "Student Permanent Record" means the minimum personal
23 information necessary to a school in the education of the
24 student and contained in a school student record. Such
25 information may include the student's name, birth date,
26 address, grades and grade level, parents' names and addresses,

1 attendance records, and such other entries as the State Board
2 may require or authorize.

3 (f) "Student Temporary Record" means all information
4 contained in a school student record but not contained in the
5 student permanent record. Such information may include family
6 background information, intelligence test scores, aptitude
7 test scores, psychological and personality test results,
8 teacher evaluations, and other information of clear relevance
9 to the education of the student, all subject to regulations of
10 the State Board. The information shall include information
11 provided under Section 8.6 of the Abused and Neglected Child
12 Reporting Act. In addition, the student temporary record shall
13 include information regarding serious disciplinary infractions
14 that resulted in expulsion, suspension, or the imposition of
15 punishment or sanction. For purposes of this provision, serious
16 disciplinary infractions means: infractions involving drugs,
17 weapons, or bodily harm to another.

18 (g) "Parent" means a person who is the natural parent of
19 the student or other person who has the primary responsibility
20 for the care and upbringing of the student. All rights and
21 privileges accorded to a parent under this Act shall become
22 exclusively those of the student upon his 18th birthday,
23 graduation from secondary school, marriage or entry into
24 military service, whichever occurs first. Such rights and
25 privileges may also be exercised by the student at any time
26 with respect to the student's permanent school record.

1 (h) "Confidential Communication" means the following:

2 (1) a communication otherwise protected by law as
3 privileged or confidential, including, but not limited to,
4 information communicated in confidence to a physician,
5 psychologist, or other psychotherapist;

6 (2) information communicated by a student or by a
7 parent or guardian of a student in confidence to a school
8 social worker, a school counselor, a school psychologist,
9 or an intern working under the direct supervision of a
10 school social worker, school counselor, or school
11 psychologist or to other school personnel;

12 (3) information communicated by a student or by a
13 parent or guardian of a student to a law enforcement
14 professional working in the school, except as provided by
15 court order; or

16 (4) information communicated to a school social
17 worker, school psychologist, or school counselor or to an
18 intern under the direct supervision of a school social
19 worker, school psychologist, or school counselor that is so
20 personal or sensitive in nature that it is presumed to have
21 been given in confidence because its disclosure may clearly
22 put the student at imminent risk of serious physical or
23 emotional harm.

24 (Source: P.A. 92-295, eff. 1-1-02.)

25 (105 ILCS 10/5) (from Ch. 122, par. 50-5)

1 Sec. 5. (a) A parent or any person specifically designated
2 as a representative by a parent shall have the right to inspect
3 and copy all school student permanent and temporary records of
4 that parent's child. A student shall have the right to inspect
5 and copy his or her school student permanent record. No person
6 who is prohibited by an order of protection from inspecting or
7 obtaining school records of a student pursuant to the Illinois
8 Domestic Violence Act of 1986, as now or hereafter amended,
9 shall have any right of access to, or inspection of, the school
10 records of that student. If a school's principal or person with
11 like responsibilities or his designee has knowledge of such
12 order of protection, the school shall prohibit access or
13 inspection of the student's school records by such person.

14 (b) Whenever access to any person is granted pursuant to
15 paragraph (a) of this Section, at the option of either the
16 parent or the school a qualified professional, who may be a
17 psychologist, counsellor or other advisor, and who may be an
18 employee of the school or employed by the parent, may be
19 present to interpret the information contained in the student
20 temporary record. If the school requires that a professional be
21 present, the school shall secure and bear any cost of the
22 presence of the professional. If the parent so requests, the
23 school shall secure and bear any cost of the presence of a
24 professional employed by the school.

25 (c) A parent's or student's request to inspect and copy
26 records, or to allow a specifically designated representative

1 to inspect and copy records, must be granted within a
2 reasonable time, and in no case later than 15 school days after
3 the date of receipt of such request by the official records
4 custodian.

5 (d) The school may charge its reasonable costs for the
6 copying of school student records, not to exceed the amounts
7 fixed in schedules adopted by the State Board, to any person
8 permitted to copy such records, except that no parent or
9 student shall be denied a copy of school student records as
10 permitted under this Section 5 for inability to bear the cost
11 of such copying.

12 (e) Nothing contained in this Section 5 shall make
13 available to a parent or student confidential letters and
14 statements of recommendation furnished in connection with
15 applications for employment to a post-secondary educational
16 institution or the receipt of an honor or honorary recognition,
17 provided such letters and statements are not used for purposes
18 other than those for which they were specifically intended, and

19 (1) were placed in a school student record prior to
20 January 1, 1975; or

21 (2) the student has waived access thereto after being
22 advised of his right to obtain upon request the names of
23 all such persons making such confidential recommendations.

24 (f) (Blank). ~~Nothing contained in this Act shall be~~
25 ~~construed to impair or limit the confidentiality of:~~

26 ~~(1) Communications otherwise protected by law as~~

1 ~~privileged or confidential, including but not limited to,~~
2 ~~information communicated in confidence to a physician,~~
3 ~~psychologist or other psychotherapist; or~~

4 ~~(2) Information which is communicated by a student or~~
5 ~~parent in confidence to school personnel; or~~

6 ~~(3) Information which is communicated by a student,~~
7 ~~parent, or guardian to a law enforcement professional~~
8 ~~working in the school, except as provided by court order.~~

9 (Source: P.A. 90-590, eff. 1-1-00.)

10 (105 ILCS 10/5.5 new)

11 Sec. 5.5. Confidentiality.

12 (a) A confidential communication made by a student 12 years
13 of age or older or by a parent or a guardian of a student who is
14 12 years of age or older must not be disclosed without the
15 voluntary written consent of the person who originally
16 disclosed the information. A confidential communication made
17 by a student under the age of 12 years may be disclosed to the
18 parent or guardian of the student. The consent shall state the
19 scope of the permissible disclosure and must be signed by the
20 person granting the consent, dated, and witnessed. A
21 confidential communication must not become part of the school
22 student record without the express written consent of the
23 person who originally disclosed the information or, in the case
24 of a student under the age of 12 years, by express written
25 consent of the parent or guardian of the student.

1 (b) A confidential communication may be disclosed without
2 voluntary written consent, notwithstanding subsection (a) of
3 this Section, only as follows:

4 (1) In discussion with a therapist, a health care
5 provider, or school service personnel for the sole purpose
6 of and to the extent necessary for referring the student
7 for treatment or services.

8 (2) In accordance with the provisions of the Abused and
9 Neglected Child Reporting Act.

10 (3) When disclosure is necessary to avert a clear
11 imminent risk of serious physical or mental injury,
12 disease, or death upon the person who originally disclosed
13 the information, upon other persons in the school community
14 (including administrators, teachers, other school
15 personnel, parents, and students), or upon other persons,
16 information may be disclosed to law enforcement officials,
17 the school administration, an individual who is in imminent
18 danger, or, if the individual who is in imminent danger is
19 a minor, to the parent or guardian of that individual.

20 (4) When directed by a court order to testify in a
21 court of law or administrative hearing about a confidential
22 communication.

23 (c) Any person participating in good faith in the making of
24 a report under the Abused and Neglected Child Reporting Act or
25 in the disclosure of information contained in a confidential
26 communication under this Act shall have immunity from

1 liability, civil, criminal, or otherwise, that might result by
2 reason of such action, except in cases of willful or wanton
3 misconduct. For the purpose of any proceeding, civil or
4 criminal, arising out of a disclosure of information, the good
5 faith of a person making such a disclosure shall be presumed.

6 Section 90. The State Mandates Act is amended by adding
7 Section 8.31 as follows:

8 (30 ILCS 805/8.31 new)

9 Sec. 8.31. Exempt mandate. Notwithstanding Sections 6 and 8
10 of this Act, no reimbursement by the State is required for the
11 implementation of any mandate created by this amendatory Act of
12 the 95th General Assembly."